

§ 357.1

AUTHORITY: 16 U.S.C. 3371 *et seq.*; 7 CFR 2.22, 2.80, and 371.2(d).

SOURCE: 78 FR 40944, July 9, 2013, unless otherwise noted.

§ 357.1 Purpose and scope.

The Lacey Act, as amended (16 U.S.C. 3371 *et seq.*), makes it unlawful to, among other things, import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported or sold in violation of any Federal, State, tribal, or foreign law that protects plants. The Lacey Act also makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant covered by the Act. In addition, the Act requires that importers submit a declaration at the time of importation for plants and plant products. Common cultivars (except trees) and common food crops are among the categorical exclusions to the provisions of the Act. The Act does not define the terms “common cultivar” and “common food crop” but instead gives authority to the U.S. Department of Agriculture and the U.S. Department of the Interior to define these terms by regulation. The regulations in this part provide the required definitions.

§ 357.2 Definitions.

Artificial selection. The process of selecting plants for particular traits, through such means as breeding, cloning, or genetic modification.

Commercial scale. Production, in individual products or markets, that is typical of commercial activity, regardless of the production methods or amount of production of a particular facility or the purpose of an individual shipment.

Common cultivar. A plant (except a tree) that:

- (1) Has been developed through artificial selection for specific morphological or physiological characteristics; and
- (2) Is a species or hybrid, or a selection thereof, that is produced on a commercial scale; and
- (3) Is not listed:
 - (i) In an appendix to the Convention on International Trade in Endangered

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Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(ii) As an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); or

(iii) Pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

Common food crop. A plant that:

(1) Is raised, grown, or cultivated for human or animal consumption; and

(2) Is a species or hybrid, or a selection thereof, that is produced on a commercial scale; and

(3) Is not listed:

(i) In an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

(ii) As an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); or

(iii) Pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

Plant. Any wild member of the plant kingdom, including roots, seeds, parts or products thereof, and including trees from either natural or planted forest stands.

Tree. A woody perennial plant that has a well-defined stem or stems and a continuous cambium, and that exhibits true secondary growth.

PART 360—NOXIOUS WEED REGULATIONS

Sec.

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